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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
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11 THUNDER STUDIOS, INC.;
12 RODRIC DAVID,
13 Plaintiffs,
14 v.

2:17-cv-00871 AB (SSx)

**STIPULATED PROTECTIVE
ORDER**

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16 CHARIF KAZAL; TONY KAZAL;
17 ADAM KAZAL; AND DOES 1 TO
18 100, INCLUSIVE,
Defendants.

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20 **1. A. PURPOSES AND LIMITATIONS**

21 Discovery in this action is likely to involve production of confidential,
22 proprietary, or private information for which special protection from public
23 disclosure and from use for any purpose other than prosecuting this litigation may
24 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
25 enter the following Stipulated Protective Order. The parties acknowledge that this
26 Order does not confer blanket protections on all disclosures or responses to
27 discovery and that the protection it affords from public disclosure and use extends
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1 only to the limited information or items that are entitled to confidential treatment
2 under the applicable legal principles. The parties further acknowledge, as set forth in
3 Section 12.3, below, that this Stipulated Protective Order does not entitle them to
4 file confidential information under seal; Civil Local Rule 79-5 sets forth the
5 procedures that must be followed and the standards that will be applied when a party
6 seeks permission from the court to file material under seal in this Court.
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8 **B. GOOD CAUSE STATEMENT**

9 This action is likely to involve the production of private records of a sensitive
10 nature, as well as other documents and information protected by the right to privacy,
11 containing information generally unavailable to the public, for which special
12 protection from public disclosure and from use for any purpose other than
13 prosecution of this action is warranted. Accordingly, to expedite the flow of
14 information, to facilitate the prompt resolution of disputes over confidentiality of
15 discovery materials, to adequately protect information the parties are entitled to keep
16 confidential, to ensure that the parties are permitted reasonable necessary uses of
17 such material in connection with this action, to address their handling of such
18 material at the end of the litigation, and to serve the ends of justice, a protective
19 order for such information is justified in this matter. It is the intent of the parties
20 that information will not be designated as confidential for tactical reasons and that
21 nothing be so designated without a good faith belief that it has been maintained in a
22 confidential, non-public manner, and there is good cause why it should not be part
23 of the public record of this case.
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25 **2. DEFINITIONS**

26 2.1 Action: The instant action, *Thunder Studios, Inc. v. Kazal, C.D. Cal.*
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Case No. 2:17-cv-00871-AB.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY” Information or Items: extremely sensitive and/or private “CONFIDENTIAL” Information or Items, the disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

2.5 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.6 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY.”

2.7 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.8 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.9 House Counsel: attorneys who are employees of a party to this Action.

1 House Counsel does not include Outside Counsel of Record or any other outside
2 counsel.

3 2.10 Non-Party: any natural person, partnership, corporation, association, or
4 other legal entity not named as a Party to this action.

5 2.11 Outside Counsel of Record: attorneys who are not employees of a
6 party to this Action but are retained to represent or advise a party to this Action and
7 have appeared in this Action on behalf of that party or are affiliated with a law firm
8 which has appeared on behalf of that party, and includes support staff. For purposes
9 of this Protective Order, The Seiden Group, notwithstanding its lack of formal
10 appearance in this litigation, shall be included in the definition of “Outside Counsel
11 of Record.”

12 2.12 Party: any party to this Action, including all of its officers, directors,
13 employees, consultants, retained experts, and Outside Counsel of Record (and their
14 support staffs).

15 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
16 Discovery Material in this Action.

17 2.14 Professional Vendors: persons or entities that provide litigation
18 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
19 demonstrations, and organizing, storing, or retrieving data in any form or medium)
20 and their employees and subcontractors.

21 2.15 Protected Material: any Disclosure or Discovery Material that is
22 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --
23 ATTORNEYS’ EYES ONLY.”

24 2.16 Receiving Party: a Party that receives Disclosure or Discovery
25 Material from a Producing Party.
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3. **SCOPE**

The protections conferred by this Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material, other than during a court hearing or at trial.

Any use of Protected Material during a court hearing or at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Protected Material during a court hearing or at trial.

4. **DURATION**

Once a case proceeds to trial, all of the court-filed information to be introduced that was previously designated as confidential or maintained pursuant to this protective order becomes public and will be presumptively available to all members of the public, including the press, unless compelling reasons supported by specific factual findings to proceed otherwise are made to the trial judge in advance of the trial. *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1180-81 (9th Cir. 2006) (distinguishing “good cause” showing for sealing documents produced in discovery from “compelling reasons” standard when merits-related documents are part of court record). Accordingly, the terms of this protective order do not extend beyond the commencement of the trial.

5. **DESIGNATING PROTECTED MATERIAL**

5.1 **Exercise of Restraint and Care in Designating Material for Protection.**

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that

1 qualifies under the appropriate standards. The Designating Party must designate for
2 protection only those parts of material, documents, items, or oral or written
3 communications that qualify so that other portions of the material, documents,
4 items, or communications for which protection is not warranted are not swept
5 unjustifiably within the ambit of this Order.

6 Except as otherwise provided, mass, indiscriminate, or routinized
7 designations are prohibited. Designations that are shown to be clearly unjustified or
8 that have been made for an improper purpose (e.g., to unnecessarily encumber the
9 case development process or to impose unnecessary expenses and burdens on other
10 parties) may expose the Designating Party to sanctions.

11 If it comes to a Designating Party's attention that information or items that it
12 designated for protection do not qualify for protection, that Designating Party must
13 promptly notify all other Parties that it is withdrawing the inapplicable designation.

14 5.2 Manner and Timing of Designations. Except as otherwise provided in
15 this Order, or as otherwise stipulated or ordered, Disclosure or Discovery Material
16 that qualifies for protection under this Order must be clearly so designated before
17 the material is disclosed or produced.

18 Designation in conformity with this Order requires:

19 (a) for information in documentary form (e.g., paper or electronic
20 documents, but excluding transcripts of depositions), that the Producing Party affix
21 at a minimum, the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL --
22 ATTORNEYS' EYES ONLY" to each page that contains protected material. If
23 only a portion or portions of the material on a page qualifies for protection, the
24 Producing Party also must clearly identify the protected portion(s) (e.g., by making
25 appropriate markings in the margins).

26 A Party or Non-Party that makes original documents available for inspection
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1 need not designate them for protection until after the inspecting Party has indicated
2 which documents it would like copied and produced. During the inspection and
3 before the designation, all of the material made available for inspection shall be
4 deemed "CONFIDENTIAL." After the inspecting Party has identified the
5 documents it wants copied and produced, the Producing Party must determine which
6 documents, or portions thereof, qualify for protection under this Order. Then,
7 before producing the specified documents, the Producing Party must affix the
8 "CONFIDENTIAL", or "HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES
9 ONLY" legend to each page that contains Protected Material. If only a portion or
10 portions of the material on a page qualifies for protection, the Producing Party also
11 must clearly identify the protected portion(s) (e.g., by making appropriate markings
12 in the margins).

13 (b) for testimony given in depositions that the Designating Party identifies
14 on the record, before the close of the deposition.

15 (c) for information produced in some form other than documentary and
16 for any other tangible items, that the Producing Party affix in a prominent place on
17 the exterior of the container or containers in which the information is stored the
18 legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -- ATTORNEYS'
19 EYES ONLY." If only a portion or portions of the information warrants protection,
20 the Producing Party, to the extent practicable, shall identify the protected portion(s).

21 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
22 failure to designate qualified information or items does not, standing alone, waive
23 the Designating Party's right to secure protection under this Order for such material.
24 Upon timely correction of a designation, the Receiving Party must make reasonable
25 efforts to assure that the material is treated in accordance with the provisions of this
26 Order.

1 Action has been terminated, a Receiving Party must comply with the provisions of
2 Section 13 below (FINAL DISPOSITION).

3 Protected Material must be stored and maintained by a Receiving Party at a
4 location and in a secure manner that ensures that access is limited to the persons
5 authorized under this Order.

6 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
7 otherwise ordered by the court or permitted in writing by the Designating Party, a
8 Receiving Party may disclose any information or item designated
9 “CONFIDENTIAL” only to:

10 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
11 well as employees of said Outside Counsel of Record to whom it is reasonably
12 necessary to disclose the information for this Action;

13 (b) the Receiving Party himself, or in the case of an entity, the Receiving
14 Party’s officers, directors, and employees (including House Counsel) of the
15 Receiving Party to whom disclosure is reasonably necessary for this Action;

16 (c) Experts (as defined in this Order) of the Receiving Party to whom
17 disclosure is reasonably necessary for this Action and who have signed the
18 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

19 (d) the Court and its personnel;

20 (e) court reporters and their staff;

21 (f) professional jury or trial consultants, mock jurors, and Professional
22 Vendors to whom disclosure is reasonably necessary for this Action and who have
23 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (g) the author or recipient of a document containing the information or a
25 custodian or other person who otherwise possessed or knew the information;

26 (h) during their depositions, witnesses, and attorneys for witnesses, in the
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1 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
2 requests that the witness sign the “Acknowledgment and Agreement to Be Bound”
3 (Exhibit A); and (2) they will not be permitted to keep any confidential information
4 unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
5 unless otherwise agreed by the Designating Party or ordered by the court. Pages of
6 transcribed deposition testimony or exhibits to depositions that reveal Protected
7 Material may be separately bound by the court reporter and may not be disclosed to
8 anyone except as permitted under this Protective Order; and

9 (i) any mediator or settlement officer, and their supporting personnel,
10 mutually agreed upon by any of the parties engaged in settlement discussions.

11 7.3 Disclosure of “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
12 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in
13 writing by the Designating Party, a Receiving Party may disclose any information or
14 item designated “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY”
15 only to:

16 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
17 as employees of said Outside Counsel of Record to whom it is reasonably necessary
18 to disclose the information for this Action;

19 (b) Experts (as defined in this Order) of the Receiving Party to whom
20 disclosure is reasonably necessary for this Action and who have signed the
21 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

22 (c) the Court and its personnel;

23 (d) court reporters and their staff;

24 (e) professional jury or trial consultants, mock jurors, and Professional
25 Vendors to whom disclosure is reasonably necessary for this Action and who have
26 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
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1 (f) the author or recipient of a document containing the information or a
2 custodian or other person who otherwise possessed or knew the information;

3 (g) during their depositions, witnesses, and attorneys for witnesses, in the
4 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
5 requests that the witness sign the “Acknowledgment and Agreement to Be Bound”
6 (Exhibit A); and (2) they will not be permitted to keep any confidential information,
7 unless otherwise agreed by the Designating Party or ordered by the court. Pages of
8 transcribed deposition testimony or exhibits to depositions that reveal Protected
9 Material may be separately bound by the court reporter and may not be disclosed to
10 anyone except as permitted under this Protective Order; and

11 (h) any mediator or settlement officer, and their supporting personnel,
12 mutually agreed upon by any of the parties engaged in settlement discussions.
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14 8. **PROTECTED MATERIAL SUBPOENAED OR ORDERED**
15 **PRODUCED IN OTHER LITIGATION**
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17 If a Party is served with a subpoena or a court order issued in any other matter
18 that compels disclosure of any information or items designated in this Action as
19 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
20 ONLY,” that Party must, unless otherwise prohibited by law:

21 (a) promptly notify in writing the Designating Party. Such notification
22 shall include a copy of the subpoena or court order;

23 (b) promptly notify in writing the party who caused the subpoena or order
24 to issue in the other litigation that some or all of the material covered by the
25 subpoena or order is subject to this Stipulated Protective Order. Such notification
26 shall include a copy of this Stipulated Protective Order; and

27 (c) cooperate with respect to all reasonable procedures sought to be
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1 pursued by the Designating Party whose Protected Material may be affected.

2 If the Designating Party timely seeks a protective order, the Party served with
3 the subpoena or court order shall not produce any information designated in this
4 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’
5 EYES ONLY” before a determination by the court from which the subpoena or
6 order issued, unless the Party has obtained the Designating Party’s permission. The
7 Designating Party shall bear the burden and expense of seeking protection in that
8 court of its confidential material and nothing in these provisions should be construed
9 as authorizing or encouraging a Receiving Party in this Action to disobey a lawful
10 directive from another court.
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12 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
13 **PRODUCED IN THIS LITIGATION**
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15 (a) The terms of this Order are applicable to information produced by a
16 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY
17 CONFIDENTIAL -- ATTORNEYS’ EYES ONLY.” Such information produced by
18 Non-Parties in connection with this litigation is protected by the remedies and relief
19 provided by this Order. Nothing in these provisions should be construed as
20 prohibiting a Non-Party from seeking additional protections.

21 (b) In the event that a Party is required, by a valid discovery request, to
22 produce a Non-Party’s confidential information in its possession, and the Party is
23 subject to an agreement with the Non-Party not to produce the Non-Party’s
24 confidential information, then the Party shall, unless otherwise prohibited by law:

25 (1) promptly notify in writing the Requesting Party and the Non-Party
26 that some or all of the information requested is subject to a confidentiality
27 agreement with a Non-Party;
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1 (2) promptly provide the Non-Party with a copy of the Protective
2 Order in this Action, the relevant discovery request(s), and a reasonably specific
3 description of the information requested; and

4 (3) make the information requested available for inspection by the
5 Non-Party, if requested.

6 (c) If the Non-Party fails to seek a protective order from this Court within
7 14 days of receiving the notice and accompanying information, the Receiving Party
8 may produce the Non-Party's confidential information responsive to the discovery
9 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
10 not produce any information in its possession or control that is subject to the
11 confidentiality agreement with the Non-Party before a determination by the Court.
12 Absent a court order to the contrary, the Non-Party shall bear the burden and
13 expense of seeking protection in this court of its Protected Material.
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15 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

16 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
17 Protected Material to any person or in any circumstance not authorized under this
18 Protective Order, the Receiving Party must immediately, unless prohibited by law
19 (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use
20 its best efforts to retrieve all unauthorized copies of the Protected Material, (c)
21 inform the person or persons to whom unauthorized disclosures were made of all the
22 terms of this Order, and (d) request such person or persons to execute the
23 "Acknowledgment and Agreement to Be Bound" (Exhibit A).
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11. **INADVERTENT PRODUCTION OF PRIVILEGED OR
OTHERWISE PROTECTED MATERIAL**

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the Court.

12. **MISCELLANEOUS**

12.1 **Right to Further Relief.** Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 **Right to Assert Other Objections.** By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 **Filing Protected Material.** A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5, and any similarly-applicable rules or procedures shall apply in any relevant foreign jurisdiction's court. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue; good cause must

1 be shown in the request to file under seal. If a Party's request to file Protected
2 Material under seal is denied by the court, then the Receiving Party may file the
3 information in the public record unless otherwise instructed by the court.
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6 **13. FINAL DISPOSITION**

7 After the final disposition of this Action, within 60 days of a written request
8 by the Designating Party, each Receiving Party must return all Protected Material to
9 the Producing Party or destroy such material. As used in this subdivision, "all
10 Protected Material" includes all copies, abstracts, compilations, summaries, and any
11 other format reproducing or capturing any of the Protected Material. Whether the
12 Protected Material is returned or destroyed, the Receiving Party must submit a
13 written certification to the Producing Party (and, if not the same person or entity, to
14 the Designating Party) by the 60 day deadline that (1) identifies (by category, where
15 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
16 that the Receiving Party has not retained any copies, abstracts, compilations,
17 summaries or any other format reproducing or capturing any of the Protected
18 Material. Notwithstanding this provision, counsel are entitled to retain an archival
19 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
20 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
21 work product, and consultant and expert work product, even if such materials
22 contain Protected Material. Any such archival copies that contain or constitute
23 Protected Material remain subject to this Protective Order as set forth in Section 4.

24 **14.** Any violation of this Order may be punished by any and all appropriate
25 measures including, without limitation, contempt proceedings and/or monetary
26 sanctions.

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FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: 8/9/18

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Suzanne H. Segal

United States District/Magistrate Judge

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EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury that
I have read in its entirety and understand the Stipulated Protective Order that was
issued by the United States District Court for the Central District of California on
_____ in the case of
_____. I agree to comply with and to be
bound by all the terms of this Protective Order and I understand and acknowledge that
failure to so comply could expose me to sanctions and punishment in the nature of
contempt. I solemnly promise that I will not disclose in any manner any information
or item that is subject to this Protective Order to any person or entity except in strict
compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
for the Central District of California for the purpose of enforcing the terms of this
Protective Order, even if such enforcement proceedings occur after termination of this
action. I hereby appoint _____ [print or type full name] of
_____ [print or type full address and
telephone number] as my California agent for service of process in connection with
this action or any proceedings related to enforcement of this Stipulated Protective
Order.

Date: _____
City and State where sworn and signed: _____
Printed name: _____
Signature: _____